

1. The Motion to Dismiss (ECF No. 301) is GRANTED as to Claims (1), (2), (3), (4), and (6) and DENIED as to Claim (5) in the Amended Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (ECF Nos. 293, 297);
2. Claim (5) of the Amended § 2255 Motion (ECF No. 297) is DISMISSED WITHOUT PREJUDICE;
3. The § 2255 proceeding is stricken from the active docket of the court; and

4. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is DENIED.

ENTER: January 8, 2013

/s/ James P. Jones
United States District Judge